IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.3136 OF 2006.

Jayant Chintamani Tipnis .. Applicant
V/s
The State of Maharashtra .. Respondent.

Mr.A.P.Mundargi i/b YKS Legal for applicant.
Mrs. M.H. Mhatre, APP for the State.

CORAM : S.C. DHARMADHIKARI, J.

DATE : 15TH SEPTEMBER, 2006.

P.C.

. The applicant is apprehending arrest in CR.No. 281 of 2006 registered at Ghatkopar Police Station. The offences alleged are punishable under Sections 420 r/w 34 of Indian Penal code.

2. The applicant submits that he was appointed as a Architect-Cum-Project consultant by a Union of Mathadi Workers namely Maharashtra Rajya Mathadi Transport and General Kamgar union (Registered). He states that the union applied for a plot of land from the Government of Maharashtra for construction of a residential complex for Mathadi Workers. Subsequently, there were factions

within the union and on account of disputes between the groups, the project came to be divided and separate allotments were sought. In the group fight the applicant is now been unnecessary involved. The proposed society had jointly arranged a function some time in January, 2006, which was attended by the applicant in the above capacity.

3. On 3rd of August, 2006 one of the groups which is controlled by one Baburao Hari Ramishte (complainant), Chairman of Mathadi Kamgar Sahakari Gruhanirman Sanstha Ltd. lodged the subject F.I.R. The F.I.R. is produced.

4. Mr. Mundargi submits that the complainant has for the first time, after 1998 and making payments of certain sums to the applicant as Architent-cum-Project Consultant falsely alleged that the office bearers of the three proposed societies have been collecting sums by distributing forms to Mathadi Workers assuring them tenements. In his statement to the police, the complainant for the first time states that the applicant has been stating and informing the Mathadi workers that he will take over the responsibility of making available

the tenements to Mathadi Workers.

5. Similarly, in the statement which has been perused along with other materials by me with the assistance of Shri Mundargi, the complainant proceeds to state that the applicant addressed the gathering of Mathadi Workers at the Bhoomi Poojan Ceremony held on 29/1/2006.

6. From the perusal of this statement and other materials, it is apparent that the applicant's role is not directly that of either distributing forms or collecting moneys as alleged. The office bearers of the three proposed societies, who have been named are also shown as accused in the subject FIR. The applicant has been involved in the project as Consultant-cum-Architect. Prima facie, he has rendered services and may have assisted the society in procuring the land and thereafter designed the construction project. For such services as the learned Additional Sessions Judge has held certain amounts have been paid to the applicants.

7. After taking instructions from the applicant who

is present in the Court, Mr. Mundargi states that the applicant is ready and willing to return those sums to whosoever claims rights therein, including the society. The learned APP in all fairness does not dispute that the role of the applicant is that of Project-Consultant-Architect. He is not office bearer of the Union.

8. All documents which are in possession of the applicant including correspondence with Municipal authority can always be taken charge of and more documents can be summoned from the custody of the applicant and the Union. In this view of matter, the applicant deserves to be enlarged on bail in the event of his arrest in aforesaid CR.

i) In the event of the arrest of the applicant in connection with C.R. No. 281 of 2006 registered with Ghatkopar Police Station, the applicant shall be enlarged on bail in the sum of Rs. 25,000/- with one or two sureties in the like amount.

ii) The applicant shall attend Ghatkopar Police Station as and when summoned.

iii) The applicant will not leave India without prior permission of the trial Court.

iv) Bail is granted subject to condition that the applicant shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of accusation against him so as to dissuade him from disclosing such facts to the Court or to the police officer/investigating agency. The applicant shall not tamper with the prosecution evidence.

vi) Any observation made in this order shall not be construed as any finding or any expression of opinion on the merits of the case at the time of trial.

vii) This order will enure to the benefit of the applicant only till charge sheet is filed. Thereafter, he will be free to apply to the appropriate Court for appropriate relief.

viii) Application is disposed of in above terms.

ix) The parties to act upon an authenticated copy of this order.

(S.C. DHARMADHIKARI, J.)